



CITY OF DETROIT
LAW DEPARTMENT

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August 21, 2019

Freddy Martinez
MuckRock News
DEPT MR 76785
411A Highland Ave
Somerville, MA 02144-2516

**RE: Freedom of Information Act Request No. A19-05629, Dated July 8, 2019,
Concerning City of Detroit Records Pertaining to Facial Recognition
Technology**

Dear Mr. Martinez:

This letter serves as the City of Detroit's partial response to the above-referenced matter. Your request was received at the City of Detroit Law Department FOIA Section on July 9, 2019. Thank you for your patience in this matter.

Your request asks in general for "Records and materials related to the solicitation, acquisition, and use of face recognition technology and related software and services." You state that "This software or services may be provided by Rekognition, Face++, and FaceFirst; this request is applicable to these and any other company providing facial recognition services under consideration or contract with this agency." You ask that we include in our search as responsive records "communications, memorandums, background papers, meeting minutes, email exchanges, or presentation materials." The date range of your request is from January 1, 2017 to the present.

Your request was submitted to the City of Detroit Police Department ("DPD") and the Office of Contracting and Procurement ("OCP"). The specific paragraphs of your request, and the responses to those paragraphs, are as follows:

• Agreements: contracts (including non-disclosure agreements), licensing agreements, nondisclosure agreements

OCP personnel have submitted the requested record, and after review by the Law Department, this portion of your request is granted. We are emailing with this response letter a 71-page contract between the City of Detroit and DataWorks Plus.

• Bid records: Requests For Proposal (or equivalent calls for bids), sole source or limited source justification and approval documentation, documentation of selection, and other materials generated in the consideration and selection of the technology in question



City personnel have not yet located records responsive to this portion of your request. Once we receive a response from City personnel regarding these records, we will provide you with a supplemental response.

- Company relations and communications: records related to meetings or follow-up actions with any vendors, companies, or other private entities marketing face recognition to this agency for immigration, intelligence, law enforcement, or other use**

Except as provided below, this portion of your request is denied pursuant to MCL 15.233(1), for the reason that it does not describe a public record sufficiently to allow City personnel to find it. See Capitol Information Association v. Ann Arbor Police, 138 Mich. App. 655, 360 N.W.2d 262 (1984). With respect to emails dated before April 1, 2019, Department of Information and Technology (“DoIT”) staff can search the email boxes of specifically named City employees for specific search terms, but both the names and the search terms have to be provided by the requestor. With respect to emails dated after April 1, 2019, DoIT staff can also search the email boxes of all employees City-wide for specific search terms, but again the search terms have to be provided by the requestor. Please also note that reviewing and redacting the emails generated by such a broad search may be prohibitively expensive. With respect to communications other than emails, your request would require City personnel to search every office and cubicle and query every City employee for the requested records, which is not administratively practical.

However, in response to a previous request, DoIT staff have located five thousand, three hundred and thirty three (5,333) pages of emails responsive to this portion of your request. The emails cover the period of January 1, 2019 to March 1, 2019. Review and redaction of those emails by the Law Department will take an estimated sixty-six and one-half (66.5) hours of staff time at an hourly rate of \$28.84 plus benefits. This hourly rate is commensurate with the lowest paid personnel capable of performing the task in the respective department. See, Section 4(1) and (3) of the Michigan Freedom of Information Act, MCL 15.234(1) and (3). Accordingly, the City will incur estimated labor costs in the amount of Two Thousand Five Hundred Ninety Four and 83/100 Dollars (\$2,594.83) in order to comply with this portion of your request. As this response is more than ten (10) days past due, you are entitled to a reduction in labor costs of fifty percent (50%). Thus, the reduced labor cost is One Thousand Two Hundred Ninety Seven and 41/100 Dollars (\$1,297.41). As explained in further detail below, upon payment of a fifty percent (50%) deposit, Law Department staff will commence reviewing and redacting the 5,333 pages of emails.

- Financial records: purchase orders, invoices, and other memoranda and documentation.**

City personnel have not yet located records responsive to this portion of your request. Once we receive a response from City personnel regarding these records, we will provide you with a supplemental response.



• Marketing records: All marketing materials - unsolicited, requested, or otherwise - acquired from vendors of face recognition technology

City personnel have not yet located records responsive to this portion of your request. Once we receive a response from City personnel regarding these records, we will provide you with a supplemental response.

• Policy records: any policy directives, guidance documents, memoranda, training materials, or similar records governing the use of face recognition technology for immigration, law enforcement, or other purposes. Any memoranda of understanding between this agency and other agencies to share data, access remote systems or other forms of information sharing with external agencies.

DPD personnel have submitted policy records and standard operating procedure records in response to this portion of your request, and after review by the Law Department, your request as to those records is granted. We are emailing with this response letter a training directive headed "Use of Traffic-Light Mounted Cameras and Facial Recognition Technology," which is three pages in length; Section 8 of the Crime Intelligence Unit's standard operating procedures, headed "Facial Recognition," which is nine pages in length; and a draft policy headed "Facial Recognition," which is three pages in length. Please note that as of the date of this response, the draft policy has not been approved by the Board of Police Commissioners.

With respect to memoranda of understanding, DPD personnel have not yet located records responsive to your request. Once we receive a response from DPD personnel regarding these records, we will provide you with a supplemental response.

• Training records: training material governing the use, sharing, or access to any related data related to or collected by the face recognition software/technology, including the legal standard that is required before using the technology. Documents, should they exist, about training for bias in the use of facial recognition technology.

DPD personnel have submitted training records in response to this portion of your request, and after review by the Law Department, your request as to those training records is granted. As stated in the bullet point immediately above, we are emailing with this response a DPD training directive headed "Use of Traffic Light-Mounted Cameras and Facial Recognition Technology."

DPD personnel have not yet located training records specifically bearing on training for bias in the use of facial recognition technology. Once we receive a response from DPD personnel regarding these records, we will provide you with a supplemental response.



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- **Use and function records:** Materials that describe the function of the software considered or in use by this agency, including emails, handouts, PowerPoint presentations, advertisements, or specification documents.

City personnel have not yet located records responsive to this portion of your request. Once we receive a response from City personnel regarding these records, we will provide you with a supplemental response.

- **Validation and accuracy:** Records, reports, audits, and other documents sufficient to describe validation, accuracy, reliability, and policy compliance of the system.

City personnel have not yet located records responsive to this portion of your request. Once we receive a response from City personnel regarding these records, we will provide you with a supplemental response.

If you wish to proceed with this request, we require that you submit a deposit in the amount of one-half (½) of the **total** estimated cost (which includes copying and mailing costs in addition to the above-referenced labor costs), in accordance with MCL 15.234(8). The method by which this estimate was arrived at is set forth in the enclosed FOIA Fee Estimate form. Please forward your check or money order in the amount of **Six Hundred Forty Nine and 70/100 Dollars (\$649.70)** made payable to the “**City of Detroit**” to my attention no later than October 4, 2019. Please note that we do not accept cash.

Upon receipt of your deposit, in accordance with MCL 15.234(1) and (3), we will provide you with a supplemental written response outlining the information that has been exempted from the record, the legal authority for each exemption, and the cost for you to obtain a copy of the record. In that regard, please note that the City charges \$0.10 per page, \$0.25 per page for color laser copies and \$1.00 per computer disk (CD). *Please note that if we are not in receipt of your deposit by the above-referenced date, we will close our file on this request, pursuant to MCL 15.234(14).* We estimate review of the record will take four (4) months once we receive your deposit.

You can find the summary of the City of Detroit Freedom of Information Act procedures and guidelines at <https://detroitmi.gov/document/foia-procedures-and-guidelines> and <https://detroitmi.gov/how-do-i/request-document/foia-freedom-information-act-request>.

Please note that pursuant to Section 10 and 10a of the Act, MCL 15.240 and 15.240a, a person receiving a written denial of a request or receiving a letter to submit the labor costs may do one of the following:

- 1) Submit a written appeal to the head of the public body denying the request. Such appeal, if submitted, should specifically state the word “appeal” and identify the reason



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or reasons for reversal of the disclosure denial. MCL 15.240(1)(a) and MCL 15.240a(1)(a); or

- 2) Commence an action in the circuit court to compel the disclosure of the public records within 180 days after the public body's denial of the request, MCL 15.240(1)(b), or 45 days after the public body's request for labor costs, MCL 15.240a(1)(b). If a court finds that the information withheld by a public body is not exempt from disclosure, or that the labor costs requested by the public body exceeds the amount permitted, the requesting party may receive the requested record and, at the discretion of the court, reasonable attorney fees and /or cost. MCL 15.240(6) and (7), and MCL 15.240a(6) and (7).

Very truly yours,

Karl Newman

Karl Newman
Senior Assistant Corporation Counsel
FOIA Section
City of Detroit Law Department
Phone Number: (313) 237-0413
Email Address: newmank@detroitmi.gov

FOIA FEE ESTIMATE pursuant to MCL 15.234(8)

pursuant to MCL 15.234(4),
effective January 1, 2019

Line	Reference	Component	Amount	Subtotal	Total
1	§ 4(2)	Fringe benefit multiplier rate, maximum 50%		35.320%	
2	§ 4(1)(a)	Labor for searching & examining to fulfill request			
3		hourly wage of lowest paid employee capable of work			
4		fringe benefit multiplier @ 35.32%		135.3%	
5	Dept.	modified hourly wage = line 3* line 4			
6		number of hours, rounded down to .25 increment			
7		line 5 multiplied by line 6			
8		hourly wage of lowest paid employee capable of work			
9		fringe benefit multiplier @ 35.32%		135.3%	
10	Dept.	modified hourly wage = line 8* line 9			
11		number of hours, rounded down to .25 increment			
12		line 10 multiplied by line 11			
13		Estimated Total - Labor for searching & examining			\$0.00
14	§ 4(1)(b)	Labor for reviewing and redacting			
15		hourly wage of lowest paid employee capable of work			
16		fringe benefit multiplier @ 35.32%		135.3%	
17		modified hourly wage = line 15* line 16			
18		number of hours, rounded down to .25 increment			
19		line 17 multiplied by line 18			
20		Estimated Total - Labor for reviewing and redacting			\$2,594.83
21	§ 4(1)(e)	Labor for duplicating			
22		hourly wage of lowest paid employee capable of work			
23		fringe benefit multiplier @ 35.32%		135.3%	
24	Dept.	modified hourly wage = line 22* line 23			
25		Number of hours, rounded down to next increment			
26		line 24 multiplied by line 25			
27		hourly wage of lowest paid employee capable of work			
28		fringe benefit multiplier @ 35.32%		135.3%	
29	Dept.	Rev			
30		Number of hours, rounded down to next increment			
31		line 29 multiplied by line 30			
32		Estimated Total - Labor for duplicating			\$0.00
33		Estimated TOTAL Labor costs - sum of lines 13, 20, and 32:			\$2,594.83
34	§ 4(9)	Reduction in labor costs for late written response			
35		number of business days late			
36		reduction at 5% / day = 0.05 x line 35			
37		maximum reduction			
38		lesser of line 36 or line 37			
39		Reduced amount = line 38 x line 33			
40		Estimated Amount Chargeable for Labor Costs, after applicable reduction:			(\$1,297.42)
40		Estimated Amount Chargeable for Labor Costs, after applicable reduction:			\$1,297.41

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FEE ESTIMATE

FOIA FEE ESTIMATE pursuant to MCL 15.234(8)pursuant to MCL 15.234(4),
effective January 1, 2019

File Number: A19-05629

40	Estimated Amount Chargeable for Labor Costs, after applicable reduction (copied from page 1):		\$1,297.41
41	§ 4(1)(d)	Estimated cost of paper copies	
42		number of 8½ x 11 or 8½ x 14 sheets	
43		price for 8½ x 11 or 8½ x 14 sheets	\$0.10
44		line 42 multiplied by line 43	
45		color or other size copies; size: _____ x _____	
46		actual price per page	
47		line 45 multiplied by line 46	
48		color or other size copies, size: _____ x _____	
49		actual price per page	
50		line 48 multiplied by line 49	
51		Total - estimated cost of paper copies	\$0.00
52	§ 4(1)(c)	Estimated cost of electronic media	
53		Number of CD's @ \$1.00	
54		Number of Flash Drives	
55		Number of Tapes	
56		Other:	
57		Sum of lines 53 - 56	\$1.00
58		Total - estimated cost of electronic media	\$1.00
59	Estimated Costs of paper copies and electronic media - sum of lines 51 and 58:		\$1.00
60	§ 4(1)(f)	Estimated cost of mailing	\$1.00
61	§ 4(2)	Reduction for indigency or qualifying non-profit	\$1.00
62		Affidavit/information provided: Y/N?	\$0.00
63	Estimated Net Charge after any reductions, but not less than zero		
	- sum of lines 40, 59, 60, and 62:		\$1,299.41
64	MAXIMUM AMOUNT FOR DEPOSIT -		
	50% of line 63, but only if line 63 exceeds \$50.00:		\$649.70
65	Sum of deposits, previous payments, other credits:		
66	CREDIT - for deposits and other previous payments:		\$0.00
67	DEPOSIT REQUIRED - Line 64 offset by line 66, but not less than zero:		\$649.70

Include the FOIA request file number listed above
on your check/money order. Failure to include
the FOIA request number will result in your check
being returned.